

Employment **Grievance And Arbitration Process - University - Denial Of Tenure**

Where a plaintiff has brought suit alleging that the defendant university's decision to deny him a tenured professorship was based on the university's awareness of the plaintiff's HIV-positive status, the suit must fail, as the plaintiff failed to seek redress through the university's grievance and arbitration process.

"Plaintiff offers several explanations for his decision to bypass [defendant Northeastern] University's grievance and arbitration procedure. He argues that because the arbitration process is not ultimately binding on the University's President and Trustees, pursuit of his contractual remedies would be a 'waste of time and money.' Second, he contends that because of his HIV status, any delay in obtaining ultimate relief would be inherently prejudicial. And third, he maintains that he would not have the panoply of discovery rights under the grievance rules (for example, the right to obtain confidential peer review documents) that he expects to have under the Federal Rules of Civil Procedure.

"None of these explanations is satisfactory. Federal policy favors arbitration agreements. '[A]ny doubts concerning the scope of an arbitrable issue [are to] be resolved in favor of arbitration.' ... While it is true that a party cannot be forced to arbitrate a dispute that is not the subject of an arbitral agreement, ... plaintiff's contract clearly commits tenure disputes to the University's grievance and arbitration process. ... Plaintiff bound himself to this process and to this process he must adhere."

Northeastern's motion for summary judgment is allowed

Brennan v. King, et al (Lawyers Weekly No. 02-291-96) (4 pages) (Stearns, J.) Edward Greer for the plaintiff, Marc Redlich for the defendants (Civil Action No. 96-11526 RGS)